

Amendments to the Drawings:

Figs. 1, 5 - 6, and 8 - 9 have been amended and are believed to be presently in compliance with 37 C.F.R. 1.84.

A replacement sheet containing amended Fig. 1, unchanged Fig. 2 and corrected sheet numbering is submitted herewith as Exhibit 1 pursuant to MPEP 608.02(q) and 37 C.F.R. 1.121(d). Specifically, reference numeral "10" has been changed to "11" to comply with the written description. See, for example, page 6, line 22 of the Description of the Preferred Embodiment(s). Furthermore, sheet numbering "1/3" has been amended to read "1/6".

A replacement sheet containing unchanged Figs. 3 - 4 and corrected sheet numbering is submitted herewith as Exhibit 2 pursuant to MPEP 608.02(q) and 37 C.F.R. 1.121(d). Specifically, sheet numbering "2/3" has been amended to read "2/6".

A replacement sheet containing amended Figs. 5 - 6 and corrected sheet numbering is submitted herewith as Exhibit 3 pursuant to MPEP 608.02(q) and 37 C.F.R. 1.121(d). Specifically, reference numeral "4" in Fig. 5 has been changed to "34" to comply with the written description. See, for example, page 9, line 8 of the Description of the Preferred Embodiment(s). Moreover, reference numeral "43" in Fig. 6 has been changed to "41" to comply with the written description. See, for example, page 9, line 15 of the Description of the Preferred Embodiment(s). Also, reference

numeral "46" has been added to Fig. 6, as shown herewith, to comply with the written description. See, for example, page 9, line 19 of the Description of the Preferred Embodiment(s). Furthermore, sheet numbering "3/3" has been amended to read "3/6".

A replacement sheet containing unchanged Fig. 7 and newly added sheet numbering is submitted herewith as Exhibit 4 pursuant to MPEP 608.02(q) and 37 C.F.R. 1.121(d). Specifically, sheet numbering "4/6" has been added, as shown herewith.

A replacement sheet containing amended Fig. 8 and newly added sheet numbering is submitted herewith as Exhibit 5 pursuant to MPEP 608.02(q) and 37 C.F.R. 1.121(d). Specifically, reference numeral "64" in Fig. 8 has been changed to "56" to comply with the written description. See, for example, page 10, lines 13 - 14 of the Description of the Preferred Embodiment(s). Moreover, reference numeral "56" in Fig. 8 has been changed to "64" to comply with the written description. See, for example, page 10, line 15 of the Description of the Preferred Embodiment(s). Furthermore, sheet numbering "5/6" has been added, as shown herewith.

A replacement sheet containing amended Fig. 9 and newly added sheet numbering is submitted herewith as Exhibit 6 pursuant to MPEP 608.02(q) and 37 C.F.R. 1.121(d). Specifically, reference numeral "66" in Fig. 9 has been moved to the right to a more appropriate location to comply with the written description. See, for

example, page 10, line 16 of the Description of the Preferred Embodiment(s).

Furthermore, sheet numbering "6/6" has been added, as shown herewith.

REMARKS/ARGUMENTS

Applicant has studied the Office Action of September 23, 2005 and made amendments to the title, specification, drawings and claims, as indicated hereinabove, to place the application in condition for allowance. No new matter has been added.

Claims 27, 30 - 33, and 36 - 42 have been cancelled without prejudice to filing future continuation application(s). Claims 28 - 29, 34 - 35, and 43 - 46 have been amended, as indicated hereinabove. New claims 47 - 53 have been added. Therefore, claims 28 - 29, 34 - 35, and 43 - 53, inclusive, are presently pending.

Objections to the Specification

Applicant has amended the specification, as indicated hereinabove, to correct the continuity data of the instant application, as requested by the Examiner. Applicant has also amended the specification to point out that speaker **50** is capable of a 360-degree or less rotational movement relative to pole or third portion **66** (Fig. 8). Support for this functionality may be found on p. 10, lines 10, 17 - 20, p. 11, lines 1 - 2, as well as in Figs. 7 - 9. The examiner's assertion that speaker **50** should be only capable of 180-degree rotational movement relative to third portion **66** is not supported by the specification and drawings. In this regard, applicant respectfully submits that speaker **50** is capable of various rotational movement, and in a preferred embodiment a 180-degree rotational movement relative to a longitudinal axis of base **56** (Fig. 7). Support

for this functionality may be found on p. 10, lines 11 - 13, p. 11, lines 6 - 8, as well as in Figs. 7 - 9.

Claim Rejections Under 35 U.S.C. §112

Claims 27 - 32, 34 - 35, and 43 - 46 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 27 and 30 - 32 have been canceled rendering the Examiner's rejections thereto moot. Claims 28 - 29, 34 - 35, and 43 - 46, inclusive, have been amended to overcome the Examiner's rejections, and are believed in condition for allowance.

Claim Rejections Under 35 U.S.C. §102

Claims 27, 31 - 33, and 39 - 42 stand rejected under 35 U.S.C. §102(b) as being anticipated by Petersen (U.S. Patent 5,282,251). Claims 27, 31 - 33, and 39 - 42 have been canceled rendering the Examiner's rejections thereto moot.

Applicant respectfully submits that the invention, as presently claimed, is patentably different from the portable speaker system of Petersen. Specifically, there is no teaching in Petersen in regard to providing two axes of rotation for any of its speakers, as recited in newly added claims 47 - 53. In fact, Petersen teaches away from the presently claimed invention by providing "two uprights 2, and 18 [that] extend downward, and are permanently inserted into two 'T' fittings 9 and 31", Col. 2, lines

52 - 54, Fig. 1. Clearly, the permanent insertion of uprights 2 and 18 precludes any rotational movement about 'T' fittings 9 and 31.

Moreover, "speaker 5 is moveably attached to bracket 17, and speaker 6 is moveably attached to bracket 19", Col. 2, lines 7 - 8, Fig. 1. Consequently, each speaker of Petersen is only capable of rotation relative to one, not two axes of rotation, as recited in newly added claims 47 - 53.

Claim Rejections Under 35 U.S.C. §103

Claims 30, and 37 - 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Petersen. Claims 30, and 37 - 38 have been canceled rendering the Examiner's rejections thereto moot.

Applicant further submits that there is no suggestion or inference of any kind in Petersen as to modifying its portable speaker system in any way to provide two axes of rotation for any of its speakers, as recited in newly added claims 47 - 53. In fact, Petersen requires fitting the two uprights "with a steadying framework on the bottom of each upright, to prevent the two uprights from tipping over", Col. 2, lines 7 - 9, Fig. 1.

Allowable Subject Matter

Claims 28 - 29, and 34 - 35 have been amended to overcome the Examiner's rejections under 35 U.S.C. §112, second paragraph, as set forth in the Office Action, and to include all of the limitations of their respective base claims and any intervening claims. Amended claims 28 - 29, and 34 - 35 are believed in condition for allowance.

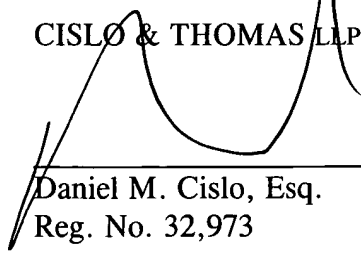
Claims 43 - 46 have been amended to overcome the Examiner's rejections under 35 U.S.C. §112, second paragraph, as set forth in the Office Action. Amended claims 43 - 46 are believed in condition for allowance.


Conclusion

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Applicant believes that the application, as amended, is in condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the telephone number listed herein below to discuss any steps necessary for placing the application in condition for allowance. In the event that any fees become due or payable, the Examiner is authorized to charge USPTO Deposit Account # 03-2030 accordingly. A duplicate of this authorization is attached herewith.

Respectfully submitted,

CISLO & THOMAS LLP


Daniel M. Cislo, Esq.
Reg. No. 32,973

Date: December , 2005

DMC/MM:cjh

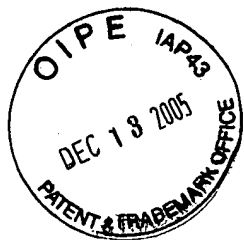
Enclosure:

Acknowledgement Postcard

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Tel: (310) 451-0647
Fax: (310) 394-4477

www.cislo.com

Z:\TMDocs\04-13276\Response to First Office Action.DOC



CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an enveloped addressed as follows:

Mail Stop AMENDMENT
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

on


Daniel M. Cisto, Reg. No. 32,973

12-7-05
12-7-05
Date